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west virginia department of environmental protection

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Division of Mining and Reclamation  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304-2345  
Phone: 304-926-0490  
Fax: 304-926-0456

Joe Manchin III, Governor  
Stephanie R. Timmermeyer, Cabinet Secretary  
www.wvdep.org

April 3, 2008

INDEPENDENCE COAL COMPANY INC  
HC 78 BOX 1800  
MADISON, WV 25130

Gentlemen:

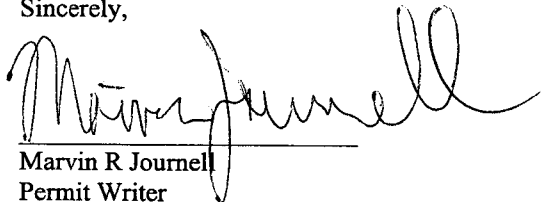
Enclosed is your WVNPDES Permit No. WV1017152 for your Surface Mine located near Bob White in Boone County, West Virginia.

We suggest that this permit or a copy of it be kept in the office nearest the discharge point.

If you have any questions, please contact me at (304) 792-7250 or by mail at:

Department of Environmental Protection  
1101 George Kostas Drive  
Logan, WV 25601  
Attention: Marvin R Journell

Sincerely,



Marvin R Journell  
Permit Writer

cc: Environmental Protection Agency  
Environmental Inspector  
DEP Regional Office File  
Headquarters NPDES File ✓



**west virginia department of environmental protection**

Division of Water and Waste Management  
601 57th Street, SE  
Charleston, WV 25304-2345  
Phone: 304-926-0495  
Fax: 304-926-0457

Joe Manchin III, Governor  
Stephanie R. Timmermeyer, Cabinet Secretary  
www.wvdep.org

**WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WATER POLLUTION CONTROL PERMIT**

NPDES PERMIT NO.: WV1017152

ISSUE DATE: April 3, 2008

ASSOCIATED PERMITS: S503097

EXPIRE DATE: October 28, 2012

SUBJECT: Haulroad; Surface Mine

SUPERSEDES/ WV1017152 / 8/20/2004  
EFFECTIVE DATE:

**HEALTH CERTIFICATE:**

LOCATION:	Bob White	Boone	Group B	Coal River
	(City)	(County)	(Hydrologic)	(Drainage Basin)

**TO WHOM IT MAY CONCERN:**

This is to certify that: INDEPENDENCE COAL COMPANY INC  
HC 78 BOX 1800  
MADISON, WV 25130

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:

operate the Red Cedar Surface Mine No.1 in the Kittanning, 5-Block, Clarion, Upper, Middle and Lower Stockton and Mercer seams of coal. Stormwater coverage is applied to all haulage and infrequently used access roads. Treated water will be discharged from the mining operation and stormwater runoff from all roadways into unnamed tributaries of/and into Bull Creek of Pond Fork, unnamed tributaries of/and into White Oak Branch, Trace Branch and unnamed tributaries of Trace Branch of Spruce Laurel Fork of Spruce Fork of the Little Coal River of the Coal River.

This permit is subject to the following terms and conditions:

- The effluent limitations, monitoring requirements and other conditions set forth in Section A, B, C and D.
- See Section D Item 5 for Special Conditions.

By : Lisa A. McClung  
Lisa A. McClung  
Director

Promoting a healthy environment.

**PLAINTIFFS' EXHIBIT 5**

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

[illegible]

**PLAINTIFFS' EXHIBIT 5**

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

**PLAINTIFFS' EXHIBIT 5**

Permit No. WV1017152  
Page 5 of 55

**A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
004	L	37°56'05" 81°45'52"	1510	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
					08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab

**PLAINTIFFS' EXHIBIT 5**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]



**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

[illegible]



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[illegible]

Permit No. WV1017152

Page 9 of 55

**A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

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Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
008	L	37°55'59" 81°45'58"	1480	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
					04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab
				(See 3, 4)									

PLAINTIFFS' EXHIBIT 5

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

- 1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

## **A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:
2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

**PLAINTIFFS' EXHIBIT 5**

**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

[illegible]

**PLAINTIFFS' EXHIBIT 5**

## **A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:
2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets shown

[illegible]

**PLAINTIFFS' EXHIBIT 5**



**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

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2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
016	L	37°56'40" 81°45'16"	1465	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L *	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
					04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab
						(See 3, 4)							
PLAINTIFFS' EXHIBIT 5													

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

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[illegible]

**PLAINTIFFS' EXHIBIT 5**

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

[illegible]

**PLAINTIFFS' EXHIBIT 5**

**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

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[illegible]



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[illegible]

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Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily Report Only	Avg. Monthly Report Only	Max. Daily Report Only	Units	Measurement Freq.	Sample Type
022	L	37°57'19" 81°45'45"	1600	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
					08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab
				(See 3, 4)									

**PLAINTIFFS' EXHIBIT 5**

Permit No. WV1017152  
Page 24 of 55

**A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type	
023	L	37°57'25" 81°45'34"	1610	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated	
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab	
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab	
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L *	See Section A of Permit Rpt: Quarterly	Grab	
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total (as Al)	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Diss. (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab	
					08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab	
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Permit No. WV1017152  
Page 26 of 55

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Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
025	L	37°57'14" 81°45'25"	1600	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
					08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab

PLAINTIFFS' EXHIBIT 5

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Page 27 of 55

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
026	L	37°57'23" 81°45'11"	1595	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	163.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab

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**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

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[illegible]



**A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

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								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type	
028	L	37°57'22" 81°44'51"	1390	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated	
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab	
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				TSS (Annual)	04/03/2008		Conc	N/A	163.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab	
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab	
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Diss. (as Al)	08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab	

PLAINTIFFS' EXHIBIT 5

**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
029	L	37°57'17" 81°45'04"	1395	Flow	08/20/2004		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	08/20/2004		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	08/20/2004		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	163.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	08/20/2004		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	08/20/2004	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	08/20/2004		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
		(See 3, 4)		Aluminum, Diss. (as Al)	08/20/2004		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab
PLAINTIFFS' EXHIBIT 5													

1. The permittee is authorized to discharge from Outlet Number(s) listed below:

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[illegible]

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[illegible]

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**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

[illegible]

**PLAINTIFFS' EXHIBIT 5**

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[illegible]



1. The permittee is authorized to discharge from Outlet Number(s) listed below:

[illegible]

**1. The permittee is authorized to discharge from Outlet Number(s) listed below:**

**2. EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

**DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

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**PLAINTIFFS' EXHIBIT 5**

### **A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

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**PLAINTIFFS' EXHIBIT 5**

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[illegible]

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Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS			
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type	
040	L	37°51'30" 81°45'25"	1475	Flow	04/29/2005		Quan	N/A	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated	
				pH	04/29/2005		Conc	6.00	N/A	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab	
				Total Suspended Solids	04/29/2005		Conc	N/A	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab	
				Settleable Solids	04/29/2005		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab	
				Selenium, Total Recoverable	04/05/2007	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab	
					04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Iron, Total (As Fe)	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Manganese, Total	04/29/2005		Conc	N/A	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Diss. (as Al)	05/30/2008		Conc	N/A	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab	
PLAINTIFFS' EXHIBIT 5		(See 3, 4)												

PLAINTIFFS' EXHIBIT 5

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# **A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

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2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS			
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type	
041	L	37°56'31" 81°45'19"	1475	Flow	04/29/2005		Quan	N/A	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated	
				pH	04/29/2005		Conc	6.00	N/A	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab	
				Total Suspended Solids	04/29/2005		Conc	N/A	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab	
				Settleable Solids	04/29/2005		Conc	N/A	N/A	0.50	ML/L *	See Section A of Permit Rpt: Quarterly	Grab	
				Selenium, Total Recoverable	04/05/2007	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab	
					04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Iron, Total (As Fe)	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Manganese, Total	04/29/2005		Conc	N/A	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Diss. (as Al)	05/30/2008		Conc	N/A	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab	

PLAINTIFFS' EXHIBIT 5



### **A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:
2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

[illegible]

**PLAINTIFFS' EXHIBIT 5**

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Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS			
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type	
044	L	37°56'05" 81°44'47"	1490	Flow	04/29/2005		Quan	N/A	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated	
				pH	04/29/2005		Conc	6.00	N/A	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab	
				Total Suspended Solids	04/29/2005		Conc	N/A	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab	
				Settleable Solids	04/29/2005		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab	
				Selenium, Total Recoverable	04/05/2007	04/05/2010	Conc	Report Only	Report Only	Report Only	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Iron, Total (As Fe)	04/06/2010		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab	
				Manganese, Total	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total (as Al)	04/29/2005		Conc	N/A	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab	
				Aluminum, Diss. (as Al)	05/30/2008		Conc	N/A	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab	

PLAINTIFFS' EXHIBIT 5

### **A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge from Outlet Number(s) listed below:
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**PLAINTIFFS' EXHIBIT 5**

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1. The permittee is authorized to discharge from Outlet Number(s) listed below:
2. **EFFLUENT LIMITATIONS AND MONITORING FREQUENCY:** Outlets should be limited and monitored by the permittee as specified below:

Outlet Number	Effluent Type	Latitude Longitude	Elevation In Feet	EFFLUENT CHARACTERISTICS	Begins	Ends	Quan/ Conc	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS		
								Min. Daily	Avg. Monthly	Max. Daily	Units	Measurement Freq.	Sample Type
047	L	37°56'06" 81°45'29"	1460	Flow	04/03/2008		Quan	Report Only	Report Only	Report Only	GPM	Semi-monthly Rpt: Quarterly	Estimated
				pH	04/03/2008		Conc	6.00	Report Only	9.00	Std Units	Semi-monthly Rpt: Quarterly	Grab
				Total Suspended Solids	04/03/2008		Conc	Report Only	35.00	70.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				TSS (Annual)	04/03/2008		Conc	N/A	147.00	N/A	MG/L	Semi-monthly Rpt: Annual	Grab
				Settleable Solids	04/03/2008		Conc	N/A	N/A	0.50	ML/L*	See Section A of Permit Rpt: Quarterly	Grab
				Selenium, Total Recoverable	04/03/2008		Conc	Report Only	4.70	8.20	UG/L	Semi-monthly Rpt: Quarterly	Grab
				Iron, Total (As Fe)	04/03/2008		Conc	Report Only	1.42	2.46	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Manganese, Total	04/03/2008		Conc	Report Only	2.00	4.00	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Total (as Al)	04/03/2008		Conc	Report Only	0.43	0.75	MG/L	Semi-monthly Rpt: Quarterly	Grab
				Aluminum, Diss. (as Al)	04/03/2008		Conc	Report Only	Report Only	Report Only	MG/L	Semi-monthly Rpt: Quarterly	Grab
		(See 3, 4)											

# A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

\* Instantaneous maximum limitation not to be exceeded at any time.

3. **COMPLIANCE POINT:** Samples taken for compliance with the above monitoring requirements shall be taken at the following locations: Outlet sites
4. **ALTERNATE EFFLUENT LIMITATIONS:** If alternate effluent limits are chosen, the following monitoring scheme applies:  
  - (a) Table I Alternate Storm Limitations applies to any discharge or increase in the volume of a discharge caused by precipitation within any 24-hour period.
  - (b) Analyze the required parameters, which are determined by effluent type (listed in A.1.) and rainfall event, listed in Table I Alternate Storm Limitations.
  - (c) The permittee shall have the burden of proof that the discharge or increase in discharge was caused by the applicable rainfall event. This shall be verified by the use of a rainfall gauge located within three miles of the discharge point and last emptied no more than twenty-four hours prior to the time the sample was taken. Automated rain gauges may also be utilized. The sampling date and amount of rainfall measured by the gauge shall be reported on the Discharge Monitoring Report(DMR).
5. The rainfall gauge shall be located within three miles of the discharge point and last emptied not more than 24 hours prior to the time the sample was taken. Automated rain gauges may also be utilized. The sampling date and amount of rainfall measured for the 24-hour period of the sample being collected shall be reported on the Discharge Monitoring Report(DMR) for each DMR reported.
6. **SUBMISSION OF DISCHARGE MONITORING REPORTS (DMRs):**  
  - (a) Permittee shall submit each quarter, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating the values of the constituents listed in Part A, to be in the discharge measured at the specific compliance points. All analyses must be determined by methods required in 40 CFR Part 136.
  - (b) The required quarterly reports shall be postmarked no later than twenty (20) days following the end of the reporting period and shall be sent to:  

**West Virginia Department of Environmental Protection**  
**Division of Mining & Reclamation / HPU / NPDES Section**  
**601 57th Street SE**  
**Charleston, West Virginia 25304**
  - (c) Enter reported average and maximum values under Quantity and Concentration in the units specified for each parameter, as appropriate.
  - (d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled N.E. (i.e. number exceeding).
  - (e) Specify frequency of analysis of each parameter as number of analyses/specified period (e.g. 3/month is equivalent to 3 analyses performed every calendar month). If continuous enter Cont. The frequency listed on format is the minimum required.
  - (f) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic means unless otherwise specified in the permit.
7. Any "not detected (ND)" results by the permittee must be "ND" at the method detection limit (MDL) for the test method used for that parameter and must be reported as less than the MDL used. The permittee

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may not report the result as zero, "ND", or report the result as less than a minimum level (ML), reporting limit (RL), or practical quantitation limit (PQL).

When averaging values of analytical results for DMR reporting purposes for monthly averages, the permittee should use actual analytical results when these results are greater than or equal to the MDL and should use zero (0) when these results are less than the MDL. If all analytical results are non-detect at the MDL (<MDL), then the permittee should use the actual MDL in the calculation for averaging and report the results as less than the average calculation.

8. In incidences where a specific test method is not defined, the permittee shall utilize an EPA approved method with a method detection limit (MDL) sensitive enough to confirm compliance with the permit effluent limit for that parameter. If a MDL is not sensitive enough to confirm compliance, the most sensitive approved method must be used. If a more sensitive EPA approved method becomes available, that method shall be used. Should the current and/or new method not be sensitive enough to confirm compliance with the permitted effluent limit, analytical results reported as "not detected" at the MDL of the most sensitive method available will be deemed compliant for purposes of permit compliance. Results shall be reported on the Discharge Monitoring Reports as a numeric value less than the MDL.



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**TABLE 1**  
**ALTERNATE STORM LIMITATIONS**

EFFLUENT TYPES	DRY WEATHER	DCP*	1 YEAR - 24 HOUR	2 YEAR - 24 HOUR	10 YEAR - 24 HOUR
<u>ACID OR FERRUGINOUS CATEGORIES</u>					
a. Discharges from underground workings of underground mines not commingled	TSS pH Iron Flow Manganese Aluminum	(NO ALTERNATE LIMITATIONS)			
b. Discharges from underground workings of underground mines commingled	TSS pH Iron Flow Manganese Aluminum				Flow pH Aluminum
c. Controlled surface mine drainage(except steep slope and mountaintop removal)	TSS pH Iron Flow Manganese Aluminum				Flow pH Aluminum
d. Non-controlled surface mine drainage(except steep slope and mountaintop removal)	TSS Iron Flow pH Manganese Aluminum	SS** pH Iron Flow Manganese Aluminum	SS** pH Flow Aluminum		Flow pH Aluminum
e. Discharges from coal refuse disposal areas	TSS pH Iron Flow Manganese Aluminum	Flow SS** pH Aluminum			Flow pH Aluminum
f. Discharges from steep slope and mountaintop removal areas	TSS Iron Flow pH Manganese Aluminum	Flow SS** pH Aluminum			Flow pH Aluminum
g. Discharges from preparation plants and preparation plant associated areas (excluding coal refuse piles)	TSS Iron Flow pH Manganese Aluminum	Flow SS** pH Aluminum			Flow pH Aluminum
h. Discharges from reclamation areas		Flow SS** pH Aluminum			Flow pH Aluminum
<u>ALKALINE CATEGORY</u>					
i. Discharges from underground workings of underground mines not commingled	TSS pH Iron Flow Aluminum Mn	(NO ALTERNATE LIMITATIONS)			
j. Alkaline Mine Discharges	TSS Iron Flow pH Mn Aluminum	Flow SS** pH Aluminum			Flow pH Aluminum
k. Reclamation areas		Flow SS** pH			Flow pH
<u>WATER QUALITY BASED LIMITS</u>					
l. Water quality based effluent limits	TSS Iron Flow pH Mn Al	SS** pH Iron Flow Manganese Aluminum			
m. Bathhouse & Sewage	UBOD BOD5 TKN DO	(NO ALTERNATE LIMITATIONS)			

DCP\* -- Discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period

SS\*\* -- Settleable Solids      Mn -- Manganese      Al -- Aluminum

County: Boone

1-Year 02.38

2-Year 02.72

10-Year 03.96

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B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the following interim requirements with the discharge limitations specified in this permit in accordance with the following schedule:

Interim Requirement

Completion Date

Effective date of this permit

2. Reports of compliance or non-compliance with, and progress reports on the interim and final requirements contained in the above compliance schedule shall be submitted no later than fourteen (14) days following each schedule date.

N/A

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C. TERMS AND CONDITIONS INCORPORATED BY REFERENCE TO THE WV NPDES REGULATIONS FOR COAL MINING AND FACILITIES, TITLE 47, SERIES 30.

- 5.1 Duty to Comply, Penalties
- 5.2 Duty to Reapply
- 5.3 Duty to Halt or Reduce Activity
- 5.4 Duty to Mitigate
- 5.5 Proper Operation and Maintenance
- 5.6 Permit Actions
- 5.7 Transfer
- 5.8 Property Rights
- 5.9 Duty to Provide Information
- 5.10 Inspection and Entry
- 5.11 Monitoring and Records
- 5.12 Signatory Requirements
- 5.13 Reporting Requirements
- 5.14 Bypass
- 5.15 Upset
- 5.16 Reopener Clause
- 5.17 Removed Substances
- 5.18 New Sources (if applicable)
- 5.19 Definitions

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**D. OTHER REQUIREMENTS****1. REPORTING SPILLS AND ACCIDENTAL DISCHARGES**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Series 3, Section 1 of the Environmental Quality Boards regulations.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Series 3, Section 1 of the regulations as they pertain to the reporting of spills and accidental discharges.

**2. HAULAGEWAYS AND ACCESS ROADS**

Haulageways and access roads shall be constructed and maintained in accordance with best management practices including, but not limited to, the performance standards contained in Title 38, Series 2, Section 4 of the West Virginia Surface Mining Reclamation Regulations.

**3. RECEIVING STREAMS**

The receiving streams shall be monitored by grab samples as required at the stream sampling points listed below, and the samples shall be analyzed for the parameters listed below. The flow of the stream shall also be estimated at the time of monitoring. Monitoring shall be done approximately at the same time as the discharge points are monitored as required under Section A of this permit. A quarterly report of the stream monitoring and flow shall be sent to the NPDES section in Charleston, on the enclosed forms along with the reports required under Section A. Based upon the stream monitoring flow data, water quality standards or other information, the Department may at any time modify the effluent limits in Section A of this permit for any of the discharge points if necessary, to insure compliance with water quality standards.

<u>STREAM STATION</u>	<u>LATITUDE</u>	<u>LONGITUDE</u>	<u>ELEV.</u>	<u>PARAMETERS</u>
DSL-1	37°55'47"	81°45'08"	952	Stream Flow cfs/ pH/ Selenium, Total Recoverable/ Iron, Total (As Fe)/ Manganese, Total/ Aluminum, Total (as Al)/ Aluminum, Diss. (as Al)
DTB	37°57'02"	81°45'59"	980	Stream Flow cfs/ pH/ Selenium, Total Recoverable/ Iron, Total (As Fe)/ Manganese, Total/ Aluminum, Total (as Al)/ Aluminum, Diss. (as Al)
DUBC	37°57'28"	81°44'48"	1090	Stream Flow cfs/ pH/ Selenium, Total Recoverable/ Iron, Total (As Fe)/ Manganese, Total/ Aluminum, Total (as Al)/ Aluminum, Diss. (as Al)
DUTB	37°57'03"	81°45'57"	979	Stream Flow cfs/ pH/ Selenium, Total Recoverable/ Iron, Total (As Fe)/ Manganese, Total/ Aluminum, Total (as Al)/ Aluminum, Diss. (as Al)
UBC	37°57'20"	81°44'46"	1095	Stream Flow cfs/ pH/ Selenium, Total Recoverable/ Iron, Total (As Fe)/ Manganese, Total/ Aluminum, Total (as Al)/ Aluminum, Diss. (as Al)
USLF	37°55'47"	81°45'08"	955	Stream Flow cfs/ pH/ Selenium, Total Recoverable/ Iron, Total (As Fe)/ Manganese, Total/ Aluminum, Total (as Al)/ Aluminum, Diss. (as Al)

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4. SURFACE MINES

If the coal mining operation has been granted Phase II revegetation release and all discharge points have been eliminated during the period this permit is in effect, the discharge limitations and monitoring requirements in Section A and Section D.3 stream monitoring shall not apply. The coal mining operation shall be maintained in accordance with best management practices including, but not limited to the applicable performance standards contained in Title 38, Series 2, West Virginia Mining Reclamation Regulation until the associated performance bond has been final released.

none.

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The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; the plans and specifications submitted with Permit Application No. N/A, completed the N/A day of N/A N/A; the information submitted with the application for Reissuance No. WV1017152 completed the 29 day of January 2008, with the plan of maintenance and method of operation thereof submitted with such application(s) with the WVNPDES Regulations, Series 30 and with any applicable rules and regulations promulgated by the State Environmental Quality Board.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. N/A, completed the N/A day of N/A, N/A, with the information submitted with Application No. for Reissuance No. WV1017152 completed the 29 day of January, 2008 and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Article 11, Chapter 22 of the code of West Virginia.

This permit is issued in accordance with the provisions of Article 11, Chapter 22 of the Code of West Virginia and is transferable under the terms of WVNPDES Regulations, Series 30, Subsection 3.5.c.